

The following information is provided to assist you with completing and submitting a Report & Consent Application to Council for a request to vary this Building Regulation.

## **EXTRACT OF REGULATION**

### **153 Report and consent for building in areas liable to flooding**

- (1) This regulation does not apply to—
  - (a) a Class 10 building; or
  - (b) an unenclosed floor area of a building; or
  - (c) an alteration to an existing building if the area of the existing building is not increased by more than 20 m<sup>2</sup>.
- (2) The report and consent of the relevant council must be obtained to an application for a building permit if the site is on an allotment that is in an area liable to flooding.
- (3) The report and consent of the relevant council under subregulation (2) need not be obtained to an application for a building permit if—
  - (a) a planning permit is required for the construction of the building; and
  - (b) the relevant planning scheme regulates the level of the lowest floor of the building in relation to any flood level declared under the Water Act 1989 or otherwise determined by the floodplain management authority or the relevant council.
- (4) The relevant council must not give its consent under subregulation (2) if it is of the opinion that there is likely to be a danger to the life, health or safety of the occupants of the building due to flooding of the site.
- (5) In its report under subregulation (2) the relevant council may specify a level for the surface of the lowest floor of a building on the site.
- (6) Before specifying a floor level under subregulation (5) the relevant council must—
  - (a) consult with the floodplain management authority for that site; and
  - (b) specify a level at least 300 mm above any flood levels declared under the Water Act 1989 or otherwise determined by the floodplain management authority, unless the floodplain management authority consents to a lower floor level.
- (7) The relevant council must without delay advise the floodplain management authority and the sewerage authority for that site of the floor level (if any) specified under subregulation (5).

## **DECISION GUIDELINES**

The following information should be outlined on your submission form as part of your application:

- Why you wish to construct the proposed works on the site

## **ASSESSMENT CRITERIA**

A referral will be sent to the Corangamite Catchment Management Authority (CCMA) for their advice on your proposal.

Where consent is given to construct on a flood prone area you will be provided with the floor level the works are to be constructed to and any other relevant conditions

## NOTES:

### WHAT IS A REPORT & CONSENT?

As set out in the **Building Act 1993** (the Act) and the Building Regulations 2018 (the Regulations), a report and consent is the process for consulting with and obtaining the approval of a reporting authority when building work may affect assets, infrastructure or amenity of the community. These include:

- Siting of a dwelling
- Building over an easement
- Building in a flood-prone area
- Fire safety matters
- Electricity sub-stations (only a report)
- Projections beyond street alignment
- Building above or below public facilities
- Precautions over street alignment (unclear)
- Installing or altering a septic tank system.

### WHEN IS A REPORT & CONSENT REQUIRED?

The Act and Regulations provide specific circumstances where a report and consent of reporting authorities is required. Division 3 of Part 4 of the Regulations prescribes the reporting authorities and the matters to be reported on. Regulation 31 refers to Schedule 5 Part 2 which lists the matters that each authority reports on. These regulations are listed on the application form.

### DO I NEED A REPORT & CONSENT IF I HAVE A PLANNING PERMIT?

Where a Planning Application has been assessed for siting, the Planning Scheme overrides the requirement to obtain a Report & Consent. The relevant Regulation will note if this is applicable. Please note not all Planning Permits will assess the siting as this depends on what triggered the need for the Permit. Where a Planning Permit has been issued and siting was not assessed the Siting Regulations must be complied with or a Report & Consent obtained.

### CONSENTING TO AN APPLICATION

A reporting authority may consent to an application as presented or place recommendations on the consent. When placing recommendations on a report and consent the prescribed reporting authority should consider the relevance to the matter being sought the recommendation and whether the RBS can reasonably enforce the recommendation.

The Report & Consent is valid for 12 months after the date of issue. If works have not commenced within this time, Report & Consent must be reapplied for. Where works have commenced within the 12 months, the Report & Consent remains valid for those works

### REFUSAL OF AN APPLICATION

A reporting authority must provide reasons for refusing an application. When a report and consent is refused, an applicant has the right to appeal the reporting authority's decision to the Building Appeals Board (BAB).

Section 144 of the Act allows an appeal to be made against a reporting authorities:

- refusal to consent to an application
- conditions imposed
- failure within a reasonable time to decide an application.

Appeals must be made within 30 days of the date the refusal was issued. An appeal can be lodged with the BAB. An application form and supporting information is to be lodged with the relevant fee. A copy of the application form can be downloaded from the Victorian Building Authority website [www.vba.vic.gov.au](http://www.vba.vic.gov.au) or contact the BAB on (03) 9285 6400.

## REPORT & CONSENT PROCESS

